

12 January 1973

NSC REVIEW
COMPLETED,
6/26/2003

MEMORANDUM FOR THE RECORD

SUBJECT: January 1973 Meeting of ICRC

1. The January meeting of the ICRC was held in the Executive Office Building at 10:00 a.m., on 10 January. Chairman Eisenhower announced that Dr. Kissinger approved the release of the Gaither Report in line with the ICRC action of December. Eisenhower also suggested that in considering appeals from NSC denials in the future ICRC should regard the NSC Staff and Kissinger as different entities or organizations. It is not clear, to me, what this means.

2. The December minutes were approved following a comment by Mr. Houston to the effect that comments on the report forms had been requested to be submitted as soon as possible rather than by 15 December. It was noted that in any event revised forms have been circulated. In this regard, Tufaro had sent revised forms to us some 10 days ago which we have not received and he furnished me with a new set.

3. The Committee then considered and took the following action on NSC 68 and related papers concerning Korea and Formosa in 1950. The appeal is by William Stueck, said to be a professor in Rhode Island, from a denial by NSC. Tom Latimer and, to some extent, David Young of NSC spoke in support of the position of NSC against release of these documents at this time. The thought was that release by the government at this time might disturb the South Korean Government in its current shifting relationships concerning North Korea and the U. S. and the world, and might adversely affect current and upcoming U. S. negotiations with the U.S.S.R. Concern was expressed regarding the impact on both Chinese governments. Neither Latimer nor Young really agreed with the position they were presenting but indicated they were compelled to present it and indeed Young recorded his vote in support of the NSC Staff position. Latimer noted that Dr. Kissinger had been much more liberal on the Gaither Report than his Staff had

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been and it is quite possible that he will be likewise with respect to these documents. The Committee approved the declassification of NSC 68 with the deletion of the last paragraph on page 19 and the first paragraph on page 20. This deletion was made at the request of Mr. Houston, and several members, including Chairman Eisenhower, supported it even though they indicated their own view that no harm would be done if those paragraphs were not deleted. The Committee also approved for declassification NSC 81 with the deletion of paragraph 22. a. , which paragraph concerns U. S. treatment of prisoners during the Korean War. The Committee also approved for declassification NSC 8/1 and 8/2 and NSC minutes of 22 March and 29 December 1949 and 20 April, 28 and 29 June and 6 and 27 July 1950. It was announced also that NSC 48/1 and 48/2, which Stueck had requested, were found to have been published by Defense at an earlier date. In forwarding these decisions to Dr. Kissinger, ICRC will note the NSC Staff views that current U. S. negotiations and relations with several governments argue against declassification at this time. Tufaro asked all concerned to destroy their copies of the NSC papers which are the subject of the Stueck appeal. Mr. Houston handed him some of ours and I have destroyed the remainder. Two items stand out in my mind from the discussion of these papers. One was that the members were addressing themselves to the merits of the classification of these documents, as indeed the Executive Order contemplates. This points up one area of serious weakness in the Order, namely, that subordinates of agency heads are put in a position of voting on a matter in which their departments may not have expertise or responsibility. The AEC member, for example, acknowledged his ignorance on U. S. -Chinese relations, but spoke, and voted, concerning the Formosa documents. Secondly, Mr. Rhoads, the Archivist, was a strong advocate of declassification. My impression is he is likely to push for declassification at every opportunity.

4. The Committee then considered the procedures paper which the working group had prepared subsequent to the December meeting. In conjunction with this the Committee also considered issues set forth in a paper distributed by Mr. Tufaro at the meeting. The Committee concluded to defer whether or not to crank into the procedures paper a provision to the effect that ICRC lacks authority with respect to questions involving intelligence sources and methods. It was recognized that the procedures treatment of this question will be determined by the resolution of the issue raised by the CIA handling of the AP appeal from the


CIA denial in December. The Committee deferred to the working group for further recommendations as to whether the procedures may be in terms which would permit ICRC to refuse to consider certain appeals. The working group also is to recommend with respect to whether ICRC should accept an appeal if the requested document is one which could be withheld, whether declassified or not, under the Freedom of Information Act. The working group is to consider further the question of whether a department whose denial is the subject of an appeal may vote on that appeal. Chairman Eisenhower asked the working group to address the procedures matter again. He also asked that the Committee be prepared to approve procedures at the February meeting. At Mr. Andrews' (Defense) suggestion Mr. Tufaro was asked to consult with all the ICRC members or their assistants in connection with the work of the working group so that ICRC will be prepared to approve the paper which the working group produces.

STATINTL



Associate General Counsel

cc: Executive Director-Comptroller
SA/Information Control

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